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DONALD SIDNEY MERRILL
APARTMENT 41
294 RIO LINDO AVE
CHICO CA 95926-5507

MAILED

MAR 03 2010

OFFICE OF PETITIONS

In re Application of :
Donald Sidney Merrill :
Application No. 09/945,176 : **ON PETITION**
Filed: September 4, 2001 :
Title: Electronic Facilitation :
Venue :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 4, 2010.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181".

The above-identified application became abandoned for failure to timely file a reply to the Notice of Non-Compliant Amendment mailed July 18, 2007. A non-final Office action had been previously mailed on April 9, 2007. This Office action set a shortened statutory period for reply of three months. Applicant filed an Amendment on July 5, 2007. However, the Amendment was not proper, so the Office mailed the Notice of Non-Compliant Amendment on July 18, 2007. This Notice set an extendable period for reply of one month. No reply having been received, the application became abandoned by operation of law on August 19, 2007. The Office mailed a courtesy Notice of Abandonment on February 5, 2008. Applicant has filed the instant petition nearly two years later.

With the instant petition, petitioner discusses prosecution that took place between 2004 and 2006, which has no bearing on the abandonment at issue in this application. As set forth above, the application became abandoned for failure to reply to the Notice mailed on July 18, 2007. Moreover, petitioner has not explained why it has taken him nearly two years from the mailing of this Notice of Abandonment. 37 CFR 1.181 states that any petition under that section not filed within two months may be dismissed as untimely.

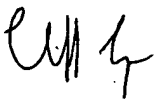
While the showing of record is not sufficient to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently \$810; and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/64 (2 pages)
 Privacy Act Statement (1 page)